

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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:
ROSY GIRON DE REYES, et al :
:
Plaintiffs :
:
versus : Civil Action Number
:
WAPLES MOBILE HOME PARK :
LIMITED PARTNERSHIP, et al : 1:16-CV-563
:
Defendants.:
-----x

February 17, 2017

The above-entitled Motions Hearing was continued
before the Honorable T.S. Ellis, III, United States District
Judge.

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EASTERN DISTRICT OF VIRGINIA

P R O C E E D I N G S

THE COURT: All right. Good afternoon. You may call the next case.

THE DEPUTY CLERK: Rose Giron de Reyes, et al versus Waples Mobile Home Park Limited Partnership, et al. Civil case number 1:16-CV-563.

Counsel, please note your appearance for the record.

THE COURT: All right. For the plaintiffs who is here?

MR. RAMKUMAR: Good afternoon, Your Honor. Archith Ramkumar for the plaintiffs. And with me is Joy Odom and Simon Sandoval.

THE COURT: All right. Good afternoon. And for the defendant.

MR. DINGMAN: Good afternoon, Your Honor. Michael Dingman and Justin deBettencourt for the defendants.

THE COURT: All right. First of all, is Ms. Cuellar here? Did we advise them that we would be delayed?

(A brief interruption in the proceedings.)

THE COURT: You all may be seated.

Mr. Ramkumar, it's nice to see you again.

MR. RAMKUMAR: Nice to see you too, Your Honor.

THE COURT: Now, are all of these people here from your law firm?

1 MR. RAMKUMAR: A substantial portion of them, yes,
2 Your Honor.

3 THE COURT: Now, you understand that I'm all in
4 favor of having people observe things, but they're not billed
5 to this case and I would not expect them to be.

6 MR. RAMKUMAR: Understood, Your Honor.

7 THE COURT: Do you understand that?

8 MR. RAMKUMAR: I understand, Your Honor.

9 THE COURT: And what your firm claims in terms of
10 pro bono time is up to your firm. But in my view, their
11 appearance here is for their personal edification and does not
12 contribute to the world of pro bono work.

13 Secondly, Mr. Ramkumar was a clerk of mine a couple
14 of years ago, but I do not recuse myself in cases involving
15 former clerks. If I only had one or two of them, I think that
16 would be appropriate. I've now had 60-some. So I can no
17 longer do it. 65 or more.

18 You may be seated for a moment.

19 I'm familiar with the facts of this case, having
20 addressed them previously. And of course, I know we're here
21 today on cross motions for summary judgment. One issue I want
22 to mention at the outset so that I can dispose of it and it
23 won't take our time for oral argument because I have another
24 matter. As Mr. Ramkumar will be familiar with and be able to
25 tell you all, I sometimes schedule more in a day than I can

1 possibly do. And putting this matter at 11:00 was a fit of
2 unwarranted optimism and I apologize to all of you for the
3 delay, but that's what it is.

4 Now, the first issue I want to address is the
5 defendant's motion for summary judgment on the issue of
6 disparate impact. As you all know, I disposed of disparate
7 impact at the motion to dismiss stage. Wrote an opinion and
8 made clear beyond dispute that my ruling was that disparate
9 impact could not be used to prove the -- or to satisfy the
10 causation requirement. Disparate impact is a judicially
11 created rule to operate in the case of statutes where
12 causation is required. And I held explicitly that disparate
13 impact could not be used to satisfy the causation requirement
14 here, because to do so, given the unique circumstances;
15 namely, that virtually all illegal or undocumented aliens are
16 Latino or Hispanic. And, therefore, to use disparate impact
17 to satisfy the causation requirement would effectively erase
18 the causation requirement.

19 But I went on to say that disparate impact could be
20 used -- could be used to help show disparate treatment in
21 addition to other proof to meet the plaintiff's burden of
22 demonstrating causation. I don't know why that wasn't
23 recognized, and I'm not going to take any time for that
24 argument today. I ruled that. I wrote an opinion on it. It
25 is law of the case, and nothing has been called to my

1 attention that would cause me under well-established doctrine
2 to change the rule of the -- of the law of the case in that
3 regard.

4 So I would think that the motion for summary
5 judgment on that ground should be denied as moot. Already
6 ruled on by the Court. And we will turn then to the other
7 aspects of this case and to hear summary judgment on those.

8 Now, I'm familiar with your briefs, and I have read
9 them. It seems to me that although the case is not without
10 its complexities or subtleties, it is in the end fairly
11 straightforward. As I see it, the jury will be asked, if this
12 case goes to a jury, to decide whether the plaintiff has shown
13 by a preponderance of the evidence that the policy that is in
14 issue here, or versions of it, in issue here, whether in
15 implementing that policy the defendant or defendants did so
16 because of the Latino or Hispanic origin of these plaintiffs.
17 That's what the statute says. It says "because of." And
18 that's what the jury will decide.

19 So let me hear argument now focused on the disparate
20 treatment claim and the 1981 claim and -- let's take them one
21 at a time. The 1981 claim and then there's a Randall Act
22 claim, a Virginia code claim, and a breach of contract claim.
23 Let's take the disparate treatment claim first, and let me
24 hear from -- let me hear from the plaintiff first.

25 On the disparate treatment claim, is it the

1 plaintiff's position that the plaintiff is entitled to summary
2 judgment on disparate treatment or that the defendant is not
3 entitled? Which is it?

4 MR. RAMKUMAR: It is the plaintiff's position, Your
5 Honor, that defendant is not entitled to summary judgment on
6 the disparate treatment claim.

7 THE COURT: All right. Let me point out to those of
8 you watching, I want to commend Mr. Ramkumar because he did
9 what no one else this morning has done. He answered my
10 question. And he knows that I'm rabid about that. And that's
11 right. He's here to tell me why the defendant is not entitled
12 to summary judgment on disparate treatment.

13 Now, with that out of the way, you may be seated.
14 And I'll ask you to tell me, since it's your burden Mr.
15 Dingman, it's your burden to persuade me that this record
16 warrants summary judgment on behalf of the defendants on the
17 disparate treatment claim.

18 MR. DINGMAN: Yes, sir. As the Court is aware, the
19 plaintiffs have no direct evidence of discrimination so they
20 are proceeding under the *McDonnell Douglas* rubric. And that
21 has three aspects to it where burden may shift back and forth.
22 But as the Supreme Court held in *Hicks*, it is --

23 THE COURT: I'm familiar with all of that.

24 MR. DINGMAN: Yes, sir.

25 THE COURT: They have to show that the plaintiffs

1 are members of a protected class. They are, aren't they?

2 MR. DINGMAN: Well, our position remains, Your
3 Honor, the female plaintiffs as illegal aliens are not a
4 protected class under the Fair Housing Act.

5 THE COURT: Well, they may not be a protected class
6 in any statute, but as -- as people of Hispanic origin,
7 they're protected, aren't they? The fact that they're illegal
8 is what's at the heart of the case.

9 MR. DINGMAN: Well, the issue, Your Honor, is
10 whether, as the Court discussed in its motion to dismiss
11 opinion, regarding the *Keller* case.

12 THE COURT: As the Court discussed in what?

13 MR. DINGMAN: In your motion to dismiss opinion.

14 THE COURT: I didn't say they weren't protected.

15 MR. DINGMAN: No, sir. But you referred to the
16 *Keller* case from the Eighth Circuit where that Court held that
17 there's no historic ties between the enactment of the Fair
18 Housing Act and illegal aliens. And for that reason, we
19 believe that they are not proper plaintiffs under Fair Housing
20 Act, because the Act was never intended to apply to that.

21 We do agree that the male plaintiffs who are in this
22 country legally are in a protected class.

23 THE COURT: All right. What else do you argue under
24 the *McDonnell Douglas* framework? First you say that the
25 females, as they're illegal or undocumented, they're not

1 protected. The next thing that they would have to show is
2 that they sought to enter a lease for the park. No question
3 about that, is there?

4 MR. DINGMAN: They attempted to enter into a lease
5 for the park, but they do not have a prima facie case. And
6 the reason for that, Your Honor, is they have to demonstrate,
7 and they alleged in their complaint in Paragraph 114 that
8 they're treated differently from similarly situated
9 non-Latinos, meaning non-Latinos who are also illegal aliens.

10 They have presented this Court with no evidence that
11 non-Latino illegal aliens are allowed to circumvent the policy
12 and design leases. In fact, we've provided to the Court
13 letters sent by the defendants to non-Latino residents
14 requiring that they provide proof of legal residency.

15 So they cannot establish a prima facie case. They
16 have not been denied housing in favor of someone else. They
17 cannot comply with the policy. And the reason they cannot
18 comply with the policy is not because they're Latino, it's
19 because the female plaintiffs are in this country illegally.
20 And the uncontested facts, Your Honor, demonstrate that. The
21 plaintiffs have admitted that Latinos routinely sign leases at
22 the park. Their expert claims that 60 percent of the
23 residents in fact are Latino. That would be 90 of the 150
24 lots.

25 They also testified at their depositions, the

1 plaintiffs themselves, that they do not believe that they were
2 treated differently because they're Latino. They recognize
3 that the issue was the fact that the female plaintiffs are
4 illegal aliens. All of that is conceded. So they do not have
5 a prima facie case of discrimination. They cannot comply with
6 the policy because of the fact that the female plaintiffs are
7 here illegally. And that's been true since the inception of
8 the case, Your Honor.

9 The four male plaintiffs have not only signed
10 leases, they've re-upped their leases year after year after
11 year. The plaintiffs have not presented to this Court any
12 evidence that non-Latinos are treated any differently with
13 respect to this policy, which everyone concedes is neutral on
14 its face. So they have no evidence to establish a prima facie
15 case of discrimination.

16 If they were able to establish that burden, Your
17 Honor -- and I would again point to the Court that there's no
18 evidence of that. The plaintiffs haven't even attempted to
19 point the Court to any example where a non-Latino illegal
20 alien was treated differently. In other words, was allowed to
21 sign a lease without complying with the policy. There is no
22 evidence of that. Without that evidence, they cannot make out
23 their prima facie. If they could, as the Court is aware,
24 under the *McDonnell Douglas* rubric, the defendants can then
25 set forth what are the policy reasons. And as the Court in

1 *Hicks* held, this isn't a determination of whether those
2 policies are correct or not. It would shift the burden back
3 to the plaintiffs to demonstrate that the policy reasons are
4 false and that the actual purpose for the policy is
5 intentional discrimination.

6 The policies are not only not false, Your Honor,
7 they're well grounded. The first one is based upon the
8 anti-harboring statute found at AUSC 1324.

9 There was a case, and we talked about this case
10 quite a bit at the motion to dismiss stage, *United States v.*
11 *Aguilar*, where Ms. Aguilar was convicted of 13 counts under
12 the anti-harboring statute.

13 The issue in that case, Your Honor, is whether there
14 had to be proof of substantial facilitation. Judge Trenga
15 found that that was not required. The Fourth Circuit found
16 that there's a split, and because of that found there was no
17 plain error and affirmed the conviction of Ms. Aguilar. In
18 doing so, I want to point the Court to two statements that the
19 Fourth Circuit made with respect to the evidence it relied on
20 in affirming the conviction.

21 The Court first said when immigration "showed up,"
22 that was enough to give knowledge to Ms. Aguilar. We in fact
23 have actual knowledge that the female plaintiffs are in this
24 country illegally.

25 The Court went on to say this: "But she also

1 admitted that it was" --

2 THE COURT: That's the prosecution under the
3 statute, isn't it?

4 MR. DINGMAN: Yes, sir.

5 THE COURT: It's not a Fair Housing Act case?

6 MR. DINGMAN: No.

7 THE COURT: So you cite it for what purpose?

8 MR. DINGMAN: I cite it, Your Honor, that one reason
9 for this policy is to avoid a potential criminal prosecution
10 under the anti-harboring statute.

11 THE COURT: All right. Next. Go on.

12 MR. DINGMAN: So here is what the Court said --

13 THE COURT: Why do I need to know what the Court
14 said?

15 MR. DINGMAN: Because it relates, Your Honor,
16 respectfully, to the policy here.

17 THE COURT: Go on.

18 MR. DINGMAN: Here is what the Court said --

19 THE COURT: Well, you've told me already that the
20 merits of the policy are not at issue. All it has to be is a
21 legitimate nondiscriminatory reason that isn't pretextual. Is
22 that right?

23 MR. DINGMAN: That's right. And I also want to
24 argue as to why it's clearly not false.

25 So here is what the Court said, which relates

1 specifically to the purpose of this policy, at least one of
2 them.

3 So she also admitted that, "It was the same to her
4 whether her tenants possessed proper documentation or did
5 not."

6 The Court went on to say the following:
7 "Particularly, inasmuch as she took no steps to ascertain the
8 status of her tenants, even after being repeatedly warned by
9 officials that numerous of her tenants were not properly
10 documented, we concluded the evidence induced at trial
11 supported a finding that she acted in reckless disregard that
12 her tenants were undocumented."

13 So under the facts of that case, if you have
14 knowledge that your tenants might be undocumented, that's
15 enough for a conviction. So one of the reasons for this
16 policy, Your Honor, is to ask for evidence of legal presence
17 so that we avoid that. The plaintiffs argue, well, there's a
18 split in the circuits, it's unclear whether there would
19 actually be a prosecution. But a business isn't required to
20 walk up to the line of a criminal act. It is certainly within
21 the reasonable operation of a company to avoid even the
22 possibility of that kind of prosecution.

23 The second reason for the policy, Your Honor, which
24 was talked about by Mr. Jones, a 30(b)(6) representative of
25 the defendants. It's also to show the objective of Mr.

1 Caruso's expert testimony, which is not contradicted in this
2 case, is that requiring proof of legal residence is key to the
3 underwriting of a lease for a very straightforward reason. As
4 the Court is aware, it's illegal to hire somebody who's in
5 this country illegally. As Mr. Caruso stated in his opinion
6 in his deposition, Your Honor, making sure that an applicant
7 has viable employment and can actually pay the rent for the
8 extended period of the lease, is a very straightforward and
9 key issue in underwriting. So that's another reason it's
10 requested.

11 The third reason is with respect to criminal
12 background checks. And the plaintiffs in this case have
13 missed this point from the beginning. We're not talking about
14 what you already -- what the entity who's performing the
15 background check does. They take a name from the defendants.
16 If that name is not accurate with respect to the applicant,
17 then whatever he already does is meaningless.

18 So one of the other purposes to make sure that we
19 can verify identity. And in the briefs we documented the
20 difference between what the male plaintiffs had to do to
21 obtain their social security numbers, being fingerprinted,
22 becoming legal, having legal status in this country, answering
23 questions, being fingerprinted on an annual basis. That's how
24 they were able to get their social security. The ITIN process
25 has none of that. And in fact, the ITIN process doesn't even

1 concern itself with legal status. The proof in this case is
2 that the four female plaintiffs all have ITINs, not one of
3 them are in this country legally.

4 THE COURT: All had what? I'm sorry.

5 MR. DINGMAN: I'm sorry?

6 THE COURT: You said they all had what?

7 MR. DINGMAN: They all have ITINs, Individual Tax
8 Identification Numbers. But --

9 THE COURT: From what? From whom?

10 MR. DINGMAN: From the IRS.

11 THE COURT: Oh, I see what you mean. They had ID
12 numbers from paying taxes.

13 MR. DINGMAN: Yes, sir.

14 THE COURT: All right. Go on.

15 MR. DINGMAN: So those policy reasons are not --
16 they're not just not false, they're unsalable. They're
17 business reasons, they're legitimate reasons. So now under --

18 THE COURT: But isn't it open -- whether they're
19 legitimate or not doesn't end the inquiry. The inquiry is
20 whether they were pretextual for discriminatory purpose. So
21 in other words, if the real reason for the -- for the policy
22 was to keep Latinos out, that would violate the FHA, wouldn't
23 it? And the Virginia Fair Housing Act, wouldn't it?

24 MR. DINGMAN: This is what the *Hicks* --

25 THE COURT: I'm sorry. I asked a question.

1 MR. DINGMAN: No, sir. They have to show that the
2 policy reasons are false.

3 THE COURT: No. The hypothetical I gave you was
4 clear. Even if the policy reasons you give have some merit,
5 if the true reason for the policy was to keep Latinos out,
6 that would violate the FHA; yes or no?

7 MR. DINGMAN: If it's proven that it's false and
8 intentional, yes.

9 THE COURT: All right. Go on.

10 MR. DINGMAN: And that's what the Supreme Court held
11 in *Hicks*. It said, "A reason cannot be proved to be 'a
12 pretext for discrimination unless it has shown both that the
13 reason was false and that the discrimination was the real
14 reason.'"

15 So they have not -- the plaintiffs have not
16 proffered --

17 THE COURT: Remind me of the date of *Hicks*.

18 MR. DINGMAN: *Hicks* was decided in 1993, Your Honor.

19 THE COURT: That's Fourth Circuit?

20 MR. DINGMAN: *Hicks* is -- this is a U.S. Supreme
21 Court.

22 THE COURT: Oh, the Supreme Court.

23 MR. DINGMAN: Yes, sir. *St. Mary's Honor Center v.*
24 *Hicks*.

25 THE COURT: All right. Go on.

1 MR. DINGMAN: So in that case, the Court made it
2 very clear that when you're at this stage of the *McDonnell*
3 *Douglas* rubric, so to speak, the plaintiffs now have to prove
4 that these policy reasons not just aren't debatable, they have
5 to prove that they're false, that they're made up.

6 THE COURT: Well, they have to prove that there's
7 evidence of pretext. I don't determine at this stage -- if
8 there's evidence of pretext, it goes to trial.

9 MR. DINGMAN: The evidence though, Your Honor, has
10 to be that these --

11 THE COURT: That's right. It has to be admissible
12 evidence of pretext. Now, do you know what they're contending
13 is pretextual or why?

14 MR. DINGMAN: No, they have not.

15 THE COURT: All right. Let's learn.

16 Mr. Ramkumar, let's hear from you on this. I take
17 it you don't quibble with his argument that the policy
18 reasons, asserted by the defendant, are on the face of it
19 legitimate non-discriminatory reasons. Whether they're a good
20 idea or a bad idea doesn't matter, but they're legitimate
21 non-discriminatory reasons. Aren't they?

22 MR. RAMKUMAR: Correct, Your Honor. Plaintiff's
23 position would be that those reasons are pretextual.

24 THE COURT: Yes. Now, why? On what admissible
25 evidence is that claim made or based?

1 MR. RAMKUMAR: So Your Honor, I'm going to address
2 the reasons given one at a time in the order they were
3 presented.

4 THE COURT: I'm sorry, sir. My ears, as you may
5 recall, they plug up occasionally, and they are fully plugged
6 today.

7 MR. RAMKUMAR: I'm going to address the reasons
8 given by opposing counsel in the order that he presented them.

9 THE COURT: All right. Sir.

10 MR. RAMKUMAR: And I'm going to begin with the
11 anti-harboring statute, 8 U.S.C. 1324.

12 So plaintiffs covered this in their briefing, but
13 there are two principal reasons why there are sufficient
14 evidence that that reason is pretextual.

15 First, the statutory language would not impose
16 liability merely for renting to illegal or undocumented
17 immigrants. Indeed *Aguilar*, the case cited by opposing
18 counsel, involved a situation where a landlord was repeatedly
19 warned by immigration officials before the criminal conviction
20 was upheld. So in that situation, the mens rea requirement
21 was met.

22 By contrast, there's no suggestion anywhere in these
23 facts that any such warnings were made and that the mens rea
24 requirement would be met.

25 Secondly, Your Honor, as plaintiffs pointed out,

1 defendants did not behave like landlords who believed that
2 they would be exposed to criminal liability. When they
3 learned or when they conducted the recertification process,
4 they did not take prompt steps to evict the plaintiffs. They
5 had since switched all of the plaintiffs, including the male
6 plaintiffs, who were legally present on the month-to-month
7 leases with increased rent. And as plaintiffs pointed out in
8 the reply brief, if defendants actually were worried about
9 facing criminal liability, they would have promptly taken
10 steps to evict the female plaintiffs, yet they did not do so.

11 For these reasons --

12 THE COURT: Well, for being good-hearted they get
13 docked.

14 MR. RAMKUMAR: Well, Your Honor, plaintiffs would
15 dispute the fact that they were good-hearted insofar as the
16 increased rent operated to functionally evict all of the
17 plaintiffs, both the male and the female plaintiffs.

18 Now, with respect to the next justification, which
19 was lease underwriting concerns. Once again, plaintiffs have
20 presented sufficient evidence that this rational is
21 pretextual. As a threshold matter, the lease underwriting
22 justification depends on the fact that defendants contend that
23 because one of the individuals in the household has no earning
24 potential, they present a risk to the lease. But this would
25 be true of any household where one of the parents stayed at

1 home. Yet, there's no indication anywhere in the policy that
2 applies with equal force to those households.

3 Moreover, there is no record of evidence that the
4 plaintiffs have been anything but model tenants. They have
5 all paid their rent on time and there have been no risk to the
6 lease presented as they lived on the lots when the policy was
7 suddenly and abruptly applied to them.

8 Moreover, the fact of the matter is there's simply
9 no record of evidence as to why undocumented immigrants
10 suddenly pose an unacceptable lease underwriting risk. And in
11 connection with this --

12 THE COURT: Under what?

13 MR. RAMKUMAR: There is no record evidence, Your
14 Honor, that undocumented immigrants pose an unacceptable lease
15 underwriting risk in connection with any other groups, such as
16 the stay-at-home parents I just mentioned.

17 In connection with this, plaintiffs want to
18 emphasize the retroactive nature of how the policy was applied
19 in this case. Once again, the plaintiffs lived on the lots
20 four years. They paid their rent on time and there was no
21 suggestion that they made any sort of -- or posed any sort of
22 unacceptable risk.

23 Finally, there are other ways if defendants were
24 truly interested in ensuring that lease underwriting was
25 properly supported for them to achieve that goal. For

1 example, they could have asked for a guarantor. They could
2 have asked for an additional security deposit. These would
3 have been additional ways or reasons for them to mitigate
4 their risk, yet they chose to ignore those alternatives.

5 Third, opposing counsel mentioned criminal
6 background checks. This has been the primary issue that
7 defendants have asserted throughout this litigation. And
8 plaintiffs have thoroughly responded and demonstrated why this
9 rational is pretextual in their briefing.

10 The company that defendants retain to carry out the
11 criminal screening and criminal background checks did not
12 require a social security number. And more importantly,
13 defendants themselves did not require a social security number
14 as recently as 2013. Their 30(b)(6) representative conceded
15 that they accepted individual taxpayer identification numbers
16 from individuals as proof of identity and that social security
17 numbers were not required.

18 Moreover --

19 THE COURT: Of course, you can buy those on the
20 streets of D.C.

21 MR. RAMKUMAR: I'm sorry, Your Honor?

22 THE COURT: You can buy those on the streets of
23 D.C., social security numbers.

24 MR. RAMKUMAR: Yes, Your Honor.

25 THE COURT: As you know from sitting in this

1 courtroom for a year.

2 MR. RAMKUMAR: Yes, Your Honor.

3 THE COURT: All right. So -- but I find it hard to
4 believe that doing a background check wouldn't be facilitated
5 by having some of this information to identify. One of the
6 problems with undocumented or illegal aliens is that they
7 frequently use a lot of different names. It makes it very
8 hard to check backgrounds. But wouldn't you -- wouldn't it be
9 reasonable to check backgrounds of people who wanted to rent
10 in your facility?

11 MR. RAMKUMAR: So, Your Honor, plaintiffs on this
12 point would point to defendants own --

13 THE COURT: I'm sorry. Did I ask a question?

14 MR. RAMKUMAR: Yes, yes, Your Honor. And the answer
15 is in a vacuum it would be reasonable, but on the facts of
16 this case the way the background check methodology has been
17 applied it is pretextual.

18 THE COURT: All right. Tell me why.

19 MR. RAMKUMAR: The reason for that, Your Honor, is
20 defendant's own behavior. As noted, they accepted individual
21 taxpayer identification numbers as proof of identity for a
22 number of years and abruptly stopped doing so. So this Court
23 need not evaluate the relative efficacy of individual taxpayer
24 --

25 THE COURT: And did they explain why they quit doing

1 it, such as it didn't work well, they didn't get accurate
2 results?

3 MR. RAMKUMAR: There's no such record explanation,
4 Your Honor, as to why the switch was made.

5 THE COURT: All right. Go ahead.

6 MR. RAMKUMAR: Moreover, on the criminal background
7 checks point, Your Honor, it is undisputed that half of the
8 plaintiffs in this lawsuit, the male plaintiffs, all pass
9 criminal background checks as they are legally present in this
10 country. And there is not a coherent record justification for
11 why they were forced to pay increased rent and why they were
12 also functionally evicted. For these reasons, the plaintiffs
13 contend that the criminal background checks justification is
14 also pretextual.

15 THE COURT: All right. Go back now to the
16 beginning. Mr. Dingman argued that they're not a protected
17 class because they're illegal aliens. Illegal aliens are not
18 a protected class. And I suggested to him that that's not a
19 class under the FHA that's protected, what's protected is
20 Latinos. What's your answer to his argument?

21 MR. RAMKUMAR: The plaintiff's answer, Your Honor,
22 is simply what you just stated, which is the protected class
23 is race or national origin. And Your Honor addressed this
24 issue in adjudicating defendant's motion to dismiss and
25 rejected this particular argument at that point in time. The

1 female plaintiffs are suing as members of a protected class in
2 that -- in their race or national origin.

3 THE COURT: All right. Let me go back now to Mr.
4 Dingman.

5 Anything else you want to argue on your motion for
6 summary judgment on the disparate treatment under the FHA?

7 MR. DINGMAN: Yes, sir. I would like to address
8 some of the points that counsel for plaintiff made. And I
9 want the Court aware --

10 THE COURT: Speak up, please.

11 MR. DINGMAN: I would like to address some of the
12 points that were made with respect to the policy issues, and
13 also to point the Court to undisputed facts that show, because
14 it's a two-step process. They have the burden of proving that
15 the policy reasons are not only false. That's step one. Step
16 two is they have to have evidence to show that the real reason
17 is for discrimination.

18 So what are the undisputed facts in this case?
19 Sixty percent of the residents are Latino. There is no
20 evidence that there's been a decline in the number of Latino
21 residents at this park. There has been no evidence that a
22 Latino who is in this country legally has ever been denied the
23 right to lease.

24 We've provided the Court with documents showing that
25 the defendants advertise in Latino newspapers. There's

1 testimony from the plaintiffs themselves that we have Hispanic
2 Spanish speakers in our office to help them read their leases.

3 There is no evidence of an intent to discriminate
4 against Latinos. In fact, the evidence is overwhelmingly
5 clear that that has never been the case. And this is an
6 important point, Your Honor, because what often gets
7 overlooked here is it's not the defendant companies. There's
8 a couple of women: Josephine Giambanco, who herself is an
9 immigrant; Carolyn Easton, who's a Latino immigrant from Peru,
10 they are the ones that the plaintiffs are saying, "You're
11 racist. You implement a discriminatory policy and you do it
12 on purpose." And they have presented no evidence of that,
13 Your Honor. None.

14 Even the plaintiffs themselves when they were asked
15 point-blank at their depositions: "Do you think you were
16 treated differently because you're Latino?" They either said,
17 "no" or "I don't know." So there is no proof that creates a
18 tribal issue that the real purpose was to discriminate. It's
19 exactly the opposite.

20 The majority of the people at that this park are
21 Latino. None of the other Latino families have issues. These
22 folks have issues because of the illegal status of the female
23 plaintiffs. And that's really what they've alleged from the
24 beginning of this case.

25 So let me go back --

1 THE COURT: It has always been a puzzle to me why
2 the parties did not work this out. The reason that it's been
3 a puzzle to me is that the defendants have always claimed, as
4 you have just articulated, that they don't discriminate.
5 Indeed, the facts show that they have many Latinos and that
6 their employees are Latinos, or one of them anyway. Am I
7 correct?

8 MR. DINGMAN: Yes, sir.

9 THE COURT: All right. Now, if what you really want
10 to do is to have enough information so that you could ensure
11 that somebody is staying with you is not a threat criminally
12 to other people, and if what you really want to do is to have
13 enough information so that you can assure that the lessee
14 does not -- is not going to skip and not pay the rent, that is
15 able to pay the rent, I've never understood why you couldn't
16 go to these people, rather than instituting a policy that
17 may -- may lead to disputes whether you win or lose you still
18 have to litigate, and get the information you need in order to
19 satisfy yourself that these four women are not ex-murderers or
20 some other kinds of threatening people, and that they or their
21 husbands are going to pay the rent. I don't understand why
22 that wouldn't have been the sensible way to resolve this
23 matter. Rather than, you can have a policy but in
24 implementing the policy you've got to use common sense.

25 Now, you may take the view that you don't want

1 illegal aliens in the park. Period. That's -- that's another
2 almost separate issue. Undocumented. I use the word
3 "illegal." It's the same thing. If they don't have
4 documents, they're not here legally. But if that's your
5 position, you don't want illegal aliens in the park, then all
6 these justifications really don't matter. You just don't want
7 illegal aliens in the park. Is that it?

8 MR. DINGMAN: No, sir. The reason why we --

9 THE COURT: You have other illegal aliens in the
10 park?

11 MR. DINGMAN: Well, if we find that people don't
12 have the proper documentation, as we've provided to the Court,
13 they are sent letters to prove their legal residence in the
14 United States.

15 THE COURT: And suppose they don't prove their legal
16 residence?

17 MR. DINGMAN: Well, then we have to do something.

18 THE COURT: What do you do?

19 MR. DINGMAN: Well, Your Honor is talking about the
20 four female plaintiffs in this case.

21 THE COURT: I beg your pardon?

22 MR. DINGMAN: Your Honor referred to the four female
23 plaintiffs in this case.

24 THE COURT: Yes. They're gone. They've moved out.

25 MR. DINGMAN: One couple is still there.

1 THE COURT: All right.

2 MR. DINGMAN: But under Your Honor's "why couldn't
3 we do something different for them?" Well, under *Aguilar*, we
4 now know that we have illegal aliens --

5 THE COURT: I see. So you're still concerned about
6 that.

7 Now, Mr. Ramkumar has distinguished this case
8 because he says there was notice and everything else. And
9 your answer to that, as you've said, you're not required to
10 take the risk that --

11 MR. DINGMAN: Our facts are worse.

12 THE COURT: I beg your pardon?

13 MR. DINGMAN: Our facts are worse, Judge. We don't
14 have somebody saying I've -- we think you have illegal -- we
15 know. We have actual knowledge. We don't even -- the statute
16 has two parts: Knowledge and reckless disregard. We don't
17 even get to reckless disregard, because we have actual
18 knowledge that we have illegal aliens.

19 So under Judge Trenga's ruling, if you're not
20 required --

21 THE COURT: Under whose ruling?

22 MR. DINGMAN: Judge Trenga, who was the trial judge
23 for *Aguilar*.

24 THE COURT: Oh, all right.

25 MR. DINGMAN: He ruled that substantive

1 facilitation, meaning you are actually engaging in trying to
2 harbor, is not required for a conviction. And the Fourth
3 Circuit affirmed that.

4 So to your point, once we know that we have somebody
5 who is there illegally, we are exposed under the
6 anti-harboring statute because we now have knowledge.

7 THE COURT: Let me hear from Mr. Ramkumar's answer
8 to that argument.

9 You distinguished *Aguilar*, but not yet quite
10 adequately given what Mr. Dingman says.

11 MR. RAMKUMAR: So, Your Honor, plaintiffs also
12 presented a factual issue as to why the anti-harboring
13 justification is pretextual, and this is because defendants
14 did not behave like landlords who believed that they actually
15 would face criminal liability.

16 THE COURT: Why not?

17 MR. RAMKUMAR: And this goes back to the fact, Your
18 Honor, that they switched the plaintiffs, all of them,
19 including the male plaintiffs, onto month-to-month leases at
20 the point where they became aware of the female plaintiffs,
21 sir.

22 THE COURT: Well, don't the female plaintiffs and
23 the male plaintiffs go together, they're couples? So if
24 you -- how can you switch -- and in fact, the male was really
25 the signature, the lessor -- lessee, rather; isn't that right?

1 MR. RAMKUMAR: That's correct, Your Honor.

2 THE COURT: So they say, we don't want illegal
3 aliens in the park because of the statute, we risk criminal
4 liability. And you say that's pretextual, why?

5 MR. RAMKUMAR: Because, Your Honor, at the point
6 where they acquire that knowledge of the female plaintiff
7 status, they did not take prompt steps to evict the female
8 plaintiffs.

9 THE COURT: Well, doesn't that make them decent
10 people rather than bad people? I mean, to throw them out on
11 the street -- the fact that they didn't throw them out on the
12 street doesn't seem to me to point to the fact that they are
13 discriminating against Latinos.

14 MR. RAMKUMAR: That point, Your Honor, goes
15 specifically to whether defendants actually believed that they
16 would face criminal liability under the statute or whether
17 they face a substantial risk of jail time and criminal
18 liability, as opposing counsel has represented. Plaintiff's
19 position is that --

20 THE COURT: So your point is simply that they really
21 believed they faced -- they faced criminal liability then they
22 would do nothing short of evicting them. The fact that they
23 didn't do it, you're saying shows that they didn't really
24 believe they were at risk for criminal prosecution.

25 MR. RAMKUMAR: That's correct, Your Honor. And in

1 fact, defendant's own 30(b)(6) representative was unable to
2 name whether or not defendants faced liability under the
3 statute.

4 THE COURT: Well, that doesn't matter. It's a legal
5 question. It's not something a witness is going to answer.
6 The 30(b)(6) isn't going to change that. Are you saying that
7 the 30(b)(6) said they weren't concerned about it?

8 MR. RAMKUMAR: No, Your Honor. This simply goes
9 back to the point of what defendants actually believed at the
10 time of the recertification.

11 THE COURT: Well, did he say at the time of the
12 implementation that they didn't believe that that was a risk?

13 MR. RAMKUMAR: Your Honor, he simply said they did
14 not believe that they faced liability under any particular
15 immigration statute.

16 THE COURT: Really? I don't recall that being the
17 testimony.

18 Mr. Dingman, what was the testimony?

19 MR. DINGMAN: Mr. Jones testified that concern over
20 the anti-harboring statute was one of the reasons --

21 THE COURT: Was he the 30(b)(6) witness?

22 MR. DINGMAN: Yes, sir.

23 THE COURT: Well, maybe Mr. Ramkumar is referring to
24 something different. But if that's a 30(b)(6) witness, I
25 don't think it can be said that he testified they weren't

1 worried about criminal liability.

2 MR. RAMKUMAR: Your Honor, plaintiff's position
3 would be that the 30(b)(6) representative was unsure about
4 whether or not the landlord ultimately faced liability.

5 THE COURT: Well, he can be unsure as to whether he
6 would actually be prosecuted, but that doesn't mean that it
7 isn't sensible to take precautionary steps to ensure that
8 you're not prosecuted. I'm sure when you've gone through a
9 red light you hope that you wouldn't be prosecuted, but you
10 were careful the next time to not to go through it.

11 (A brief interruption in the proceedings.)

12 THE COURT: All right. Go ahead, Mr. Ramkumar.

13 MR. RAMKUMAR: Going back to the precautionary
14 measures point you just made, Your Honor. Once again,
15 plaintiffs would stand behind the factual dispute they have
16 raised that the defendants did not behave like landlords who
17 actually believed they faced anti-harboring liability.

18 THE COURT: I see. I understand that argument. I
19 think we have exhausted the principal arguments on the two
20 Housing Act claims.

21 Is there anything else I should know about either
22 the Virginia or FHA claims?

23 MR. DINGMAN: Your Honor, I just want to respond --

24 THE COURT: Louder, please.

25 MR. DINGMAN: I would like to respond to the

1 argument that was just made. The facts in this case -- and
2 this is the plaintiffs wanting to have their cake and eat it
3 too -- when we get to the Mobile Home Lot Rental Act claim,
4 they say, we attempted to evict these plaintiffs and the
5 evidence is clear we demanded that they provide proof of their
6 legal residence. When they could not do that, we threatened
7 eviction.

8 This lawsuit was then filed, and the plaintiffs
9 claim that under the Mobile Home Lot Rental Act we couldn't
10 evict them anyway, that we had to at least give them 60 days
11 notice.

12 THE COURT: Well, that's true. Isn't it 60 days
13 notice?

14 MR. DINGMAN: That's what the Act says.

15 So this argument that --

16 THE COURT: It makes it true.

17 MR. DINGMAN: -- that actual discrimination is shown
18 because we didn't evict immediately.

19 THE COURT: That's what he's saying. His argument
20 is --

21 MR. DINGMAN: And the plaintiffs are saying --

22 THE COURT: Just a moment. One of us at a time.
23 He's saying that the fact that you didn't evict them
24 undermines your claim that you were really worried about
25 criminal prosecution, whether that's plausible or not is

1 another matter. Go ahead.

2 MR. DINGMAN: Well, how can the plaintiffs take that
3 position and at the same time say that if we had gone forward
4 with those evictions we would have violated the Mobile Home
5 Lot Rental Act?

6 THE COURT: Now, have you and Mr. Ramkumar pretty
7 much exhausted the principal points of the FHA and the
8 Virginia Housing Act claims?

9 MR. DINGMAN: I would just close with this, Your
10 Honor. The plaintiffs have not pointed this Court to any
11 evidence showing intentional discrimination against Latinos.

12 THE COURT: How about the 1981 claim? Is that any
13 different in analysis?

14 MR. DINGMAN: It's not any different, Your Honor.
15 Obviously, you have to show intentional discrimination under
16 1981. With respect to the citizenship claims, we have all the
17 same admissions from the plaintiffs that non-U.S. citizens
18 routinely sign leases, they're not prohibited from signing
19 leases.

20 And when we were here on a motion to dismiss, the
21 plaintiffs told the Court the burden that they faced were
22 obtaining I-94's. Well, that's not true. The female
23 plaintiffs have no documents showing their legal presence in
24 the United States, let alone an I-94.

25 So the burden that was proffered was not true. So

1 there is no basis for a 1981 claim, and it should be
2 dismissed.

3 THE COURT: What do you say to the arguments under
4 both the Housing Act and the '81 claim that until April of
5 2016 the policy required documents that weren't particularly
6 probative of identity or legal status in the United States,
7 and that the criminal and credit background checks can be run
8 and indeed were run on some of the plaintiffs without the
9 forms that the policy requires, and that numerous legal
10 immigrants lack the forms that the policy require and that
11 Latinos are more likely than other groups to be affected by
12 the policy?

13 MR. DINGMAN: Well, two responses to that, Your
14 Honor. First of all, the female plaintiffs in this case have
15 no documents at all. So there is no document they could
16 present to satisfy the policy.

17 Secondly, and we proffered these to the Court, the
18 residential occupancy manual standards have a laundry list of
19 documents that prove legal status and legal residence.

20 We provided a declaration from Mr. Jones who
21 testified that those applied to Waples Park. And so it wasn't
22 simply limited to I-94s or Visas. It was if you had proof
23 from a U.S. Government-issued document that you have legal
24 status, that was sufficient. And all of the defendants who
25 were deposed on that, Mr. Jones, Ms. Easton, Ms. Giambanco,

1 all testified to that fact.

2 So there is no evidence that the defendants limited
3 what would be accepted to prove legal status. Nor is there
4 any evidence that there was any effort by the female
5 plaintiffs to provide any such documents, because they do not
6 exist.

7 THE COURT: All right. Let's turn to -- do you have
8 anything, Mr. Ramkumar, you want to say on the 1981 claim that
9 hasn't been already said?

10 MR. RAMKUMAR: I do, Your Honor, just very briefly.
11 There are two principal reasons why plaintiffs have sustained
12 their burden on the Section 1981 claim sufficient for this
13 claim to go forward to a jury.

14 One is, as Your Honor just noted, an I-94 and a Visa
15 are not particularly probative of legal status, yet they
16 impose substantial burdens. And the second --

17 THE COURT: What's the I-94 again?

18 MR. RAMKUMAR: That's the arrival/departure form,
19 Your Honor.

20 THE COURT: Well, it has something to do with legal
21 presence. If you didn't have an I-94 at all, then you could
22 have walked across the border in Texas because you wouldn't
23 have an I-94, right? At least if you had an I-94, you would
24 have passed some inspection at some border.

25 MR. RAMKUMAR: Yes, Your Honor. But plaintiffs have

1 put forth a record evidence with a Yakub declaration showing
2 that there are some individuals who, for example, obtain
3 temporary protected status who don't necessarily have an I-94.

4 THE COURT: That's true. But to say that the I-94
5 have no relevance and no value at all seems to me to overstate
6 the case. It has some, it isn't conclusive. In fact, very
7 little is conclusive, other than a green card or a work permit
8 or something. Even a social security card isn't proof of
9 legal presence, because you can buy those in Washington. But,
10 I'm not sure that there is a single document that everyone
11 would have.

12 In any event, go ahead, I'll hear from you further.

13 MR. RAMKUMAR: And then the second reason, Your
14 Honor, and the plaintiffs have pointed this out repeatedly, is
15 the policy's breadth.

16 THE COURT: Is the what, sir?

17 MR. RAMKUMAR: Is the policy's breadth. And its
18 application --

19 THE COURT: The policy's?

20 MR. DINGMAN: Breadth.

21 THE COURT: Breadth. I'm sorry. Yes, go ahead.

22 MR. RAMKUMAR: And it's an application not just to
23 the female plaintiffs, but also to the male plaintiffs.

24 Now, moments ago when opposing counsel was
25 addressing the Fair Housing Act claims, he made the argument

1 that the policy does not affect the ability of any legally
2 present individual to lease at the park.

3 Plaintiffs vigorously dispute that fact, insofar as
4 the male plaintiffs attempted to renew their leases repeatedly
5 yet were rebuffed because of this policy.

6 There's no --

7 THE COURT: Well, that's because of their wives or
8 their female companions, right?

9 MR. RAMKUMAR: Well, Your Honor, plaintiffs would
10 submit that that's not entirely clear from the record insofar
11 as the violation letters --

12 THE COURT: What are you going to tell the jury
13 about all these other Latinos in the park that have not had
14 any trouble? It's kind of hard to have an animus against
15 Latinos when they're 60 percent of your park.

16 MR. RAMKUMAR: Your Honor, as the Supreme Court
17 cases in plaintiff's briefs note, it is not necessary to show
18 that treatment of other members of a --

19 THE COURT: No, it isn't necessary, but you've got
20 to persuade a jury.

21 Do you really think you can do that with 60 percent
22 of the park being Latinos?

23 MR. RAMKUMAR: We do, Your Honor.

24 THE COURT: All right. Good luck. If I get to that
25 point. Good luck.

1 Go ahead. Let me hear further from you.

2 MR. RAMKUMAR: Similarly, Your Honor, the fact that
3 there's no record justification or rationale for why the male
4 plaintiffs were required to pay the increased rent and were
5 required to face an increased eviction.

6 So plaintiffs believe that these two pieces of
7 evidence satisfy our burden under the Section 1981 claim.

8 THE COURT: All right. And let me ask Mr. Dingman.
9 I don't see any rationale for the increased rent. Why should
10 these people have to pay increased rent?

11 MR. DINGMAN: Well, the issue, Your Honor, is when
12 you go to a month-to-month lease, you now have a higher-risk
13 tenant because they're not obligated and you have no agreement
14 that they have to stay for a full year. So what the
15 defendants did here -- and it's exactly what you were saying
16 earlier, Your Honor. We didn't immediately throw them out.
17 Had we done that, that would have been used against us.

18 What the evidence shows, and it's undisputed, is
19 that you --

20 THE COURT: You get sued because you were
21 good-hearted. Right?

22 MR. DINGMAN: These women were all given the
23 opportunity --

24 THE COURT: That's what the jury is going to hear.

25 MR. DINGMAN: Well, the jury is going to hear that

1 there's no evidence that Latinos are targeted or have ever
2 been targeted. That's the fundamental issue they have to
3 prove for both of these intentional discrimination claims.
4 They haven't given this Court any evidence of that.

5 THE COURT: Tell me again what the record shows
6 about the ethnicity of your client, the workers?

7 Yours, Mr. Dingman.

8 MR. DINGMAN: Carolina Easton is a Latina immigrant
9 from Peru.

10 THE COURT: Who is she now?

11 MR. DINGMAN: She is -- Josephine Giambanco is the
12 property manager. Carolina Easton is her immediate
13 supervisor. And they were both deposed in this case. She
14 came from Peru. She's a legal immigrant in this country.
15 She's Latino. And I can tell you --

16 THE COURT: Is she a Spanish speaker?

17 MR. DINGMAN: She is a Spanish speaker.

18 THE COURT: And who is the other person?

19 MR. DINGMAN: Josephine Giambanco, who's Italian and
20 who also came to this county and is a legal resident now.

21 And one of the things, Your Honor, always in my mind
22 gets overlooked in this case, Caroline Easton is being told,
23 you discriminate against Latinos, and she herself is Latino.

24 THE COURT: Save it for the jury. I'm not moved.

25 MR. DINGMAN: It shouldn't get to the jury.

1 THE COURT: Tell me this, who is the head of Waples
2 Mobile Home Park Limited Partnership?

3 MR. DINGMAN: It's a -- well, there's -- I would
4 probably have to say Mark Jones is the CFO.

5 THE COURT: Was he deposed?

6 MR. DINGMAN: Yes, he was. He was the corporate
7 representative.

8 THE COURT: All right. And who made the decision to
9 implement this policy?

10 MR. DINGMAN: This policy, as the evidence showed,
11 was implemented in 2006. So it wasn't a policy that was
12 suddenly implemented, as the plaintiff suggests. The
13 requirement for proof of legal residence has been in place for
14 more than ten years. And as Mr. Caruso stated in his
15 declaration and report, there are a myriad of reasons for
16 that. So this is not a sudden policy that was implemented.
17 It's a policy that's been in place for a long time.

18 THE COURT: Who made the decision to implement the
19 policy?

20 MR. DINGMAN: At that time it was the managers of
21 the park, and none of them are still with the company.

22 THE COURT: All right. And when the policy changed
23 in 2015, who made that decision?

24 MR. DINGMAN: Well, the policy didn't change. What
25 was discovered through audits, and we audited everybody, is

1 that we did not have the documentation that was required under
2 the policy. And so we asked people, not just Latinos, to
3 provide the documentation that was missing.

4 THE COURT: All right. Well, the arguments that
5 I've heard -- Mr. Ramkumar, I'll give you the last word here
6 -- but the arguments I've heard have been helpful.

7 Let me hear anything further you have, Mr. Ramkumar.

8 MR. RAMKUMAR: Just very briefly. Opposing counsel
9 addressed the increased rent and the conversion of the female
10 and the male plaintiff's leases into month-to-month leases.
11 And he said the reason for that was the increased risk they
12 posed. But once again, this goes to the pretextual nature of
13 the justifications offered. There is no record evidence that
14 the male plaintiffs and the female plaintiffs posed any sort
15 of risk while they lived at the park. And simply because the
16 defendants decided to abruptly begin the recertification
17 process does not make that risk appear.

18 For these reasons and the reason already elucidated
19 in our papers, we believe a 1981 claim can go to a jury.

20 THE COURT: All right. Mr. Dingman, you realize
21 that if this matter does go to trial -- I'm going to take the
22 matter under advisement -- but if the matter does go to trial,
23 the jury will not be instructed along the lines of the
24 *McDonnell Douglas*, *Burdine* proof scheme.

25 Instead, the jury will be asked the simple question:

1 Do you find -- for example, on the FHA claims -- do you find
2 that the plaintiff has proved by a preponderance of the
3 evidence that the implementation of this policy was caused by
4 an anti-Latino animus; that the ethnic origin of the
5 plaintiffs was the cause of the imposition of the -- or the
6 imposition of the policy on them? And that -- that's what the
7 jury will have. To them, it's that simple.

8 But you're aware that it's not going to go through
9 this *McDonnell Douglas*, *Burdine* scheme?

10 MR. DINGMAN: Yes, I'm aware, Your Honor. And
11 that's the -- at the end of the day, what the *Hicks* case says
12 is there has to be evidence where a jury can say, you did this
13 to intentionally discriminate against Latinos. I would ask
14 the Court, what evidence have you heard that demonstrates
15 that? What you have heard is that the majority of the
16 residents are Latino. And in request for admissions, all of
17 the plaintiffs say Latinos routinely are able to sign leases.
18 So where is their Latino animus?

19 THE COURT: All right. And Mr. Ramkumar, to be true
20 to my offer to have you have the last word, the anti-Latino
21 animus is where, in a sentence?

22 MR. RAMKUMAR: It is found in the fact that the male
23 plaintiffs, who are legally present in this country, were
24 affected equally by the consequences of the policy.

25 THE COURT: All right. Thank you. I'll take the

1 matter under advisement.

2 I'll take a brief recess and then I'll take up the
3 Nam matter.

4 MR. SANDOVAL: Your Honor, respectfully, there's
5 another motion before you today in this matter.

6 THE COURT: Yes, I do. This was a motion to do
7 what? Remind me.

8 MR. SANDOVAL: To strike the report --

9 THE COURT: I can't hear you.

10 MR. SANDOVAL: Excuse me, Your Honor. Plaintiffs
11 have moved to strike the expert report of defendant's expert.

12 THE COURT: Oh, yes. I'm familiar with that. I'll
13 rule on that on the papers.

14 MR. SANDOVAL: Thank you, Your Honor.

15 THE COURT: I thank counsel for your cooperation.

16 MS. ODOM: Your Honor, I apologize. The pretrial is
17 also set for right now.

18 THE COURT: Yes, but I'm not going to set the trial
19 date and do all of those things until I resolve this matter.
20 And then I will have you return.

21 MS. ODOM: Thank you.

22 THE COURT: But I appreciate your reminding me of
23 that. But I don't want to do it until I decide these things.
24 But you're right, it was also scheduled for today. And I'm
25 glad you reminded me of this other motion which I will rule

1 on. Thank you.

2 It was nice to see you again, Mr. Ramkumar.

3 MR. RAMKUMAR: Good to see you too, Your Honor.

4 THE COURT: You don't look like you've aged very
5 much.

6 MR. RAMKUMAR: I take that as a compliment.

7 THE COURT: Court stands in recess. And then I'll
8 begin with the United States against Nam Hoang.

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10 (Proceedings adjourned at 2:59 p.m.)

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CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Motions Hearing in the case of the **ROSY GIRON DE REYES, et al versus WAPLES MOBILE HOME PARK LIMITED PARTNERSHIP, et al.** Civil Action Number 1:16-CV-563, in said court on the 17th day of February, 2017.

I further certify that the foregoing 46 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, my computer realtime display, together with the backup tape recording of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, this the August 23, 2017.



Tonia M. Harris, RPR
Official Court Reporter

Tonia M. Harris OCR-USDC/EDVA 703-646-1438